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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,306	03/19/2004	Anthony E. Tognetti	5709-169	7334
7590	01/25/2006			
David D. Murray BRINKS HOFER GILSON & LIONE P.O. Box 10395 Chicago, IL 60610				
			EXAMINER STRIMBU, GREGORY J	
			ART UNIT 3634	PAPER NUMBER

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,306	Applicant(s) TOGNETTI ET AL.	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a first flange and a second . . . from said second leg" on lines 6-7 of claim 1 render the claims indefinite because it is unclear if both the first and second flanges extend from the second leg or if only the second flange extends from the second leg.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 7, 8, 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover. Nowosiadly '631, in figure 8, discloses a weatherstrip for a window opening of a motor vehicle comprising, in combination, a generally U-shaped body 212 having a first, shorter leg 222 having a first end (not numbered, but shown in figure 8) and a second, longer leg 218 having a second end (not numbered, but shown in figure 8), a latch member 232 disposed on said second end, a first flange 206 and a second 250 spaced apart flange extending from said second leg, said flanges each including a surface having flocking 246 and

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252, respectively, disposed thereupon, a third flange 226 extending from the body 212 toward an end of one of the first and second flanges, said shorter leg having a show surface including a layer 240, the first end includes a member 242, a pair of flanges 236. Nowosiadly '631 is silent concerning the show layer comprising a thermoplastic olefin material.

However, Dover discloses a weatherstrip comprising a show surface including a layer 50 wherein the layer 50 comprises a thermoplastic olefin material. See column 4, lines 19-66.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631 with a thermoplastic olefin material, as taught by Dover, to improve the aesthetics of the seal by matching the color of the seal to the color scheme of the vehicle.

Claim 8 is anticipated by Nowosiadly '631 in view of Dover because claim 8 recites no more than product by process limitations and is, therefore, anticipated by the product of Nowosiadly '631 in view of Dover as set forth above.

Claims 9, 10, 12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover and Vance. Nowosiadly '631, in figure 8, discloses a weatherstrip for a motor vehicle comprising in combination, a J-shaped body 212 having a first, shorter leg 222 having a first end (not numbered, but shown in figure 8 at the distal end of the first leg) and a second, longer leg 218 having a second end (not numbered, but shown in figure 9 where the latch member 214 engages

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the second leg), a latch member 214 disposed on said second end, a first flange 250 extending from the second leg proximate the latch member, a second flange 206 spaced from the first flange and extending from the second leg, and a third flange 226 extending from the body toward an end of the second flange, the first and second flanges each including a surface having flocking 246 and 252 disposed thereupon, the shorter leg having a show surface covered with a layer 240, a member 242, a pair of ribs 236 disposed adjacent the latch member. Nowosaidly '631 is silent concerning a layer of thermoplastic olefin material.

However, Dover discloses a weatherstrip comprising a show surface including a layer 50 wherein the layer 50 comprises a thermoplastic olefin material. See column 4, lines 19-66.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631 with a thermoplastic olefin material, as taught by Dover, to improve the aesthetics of the seal by matching the color of the seal to the color scheme of the vehicle.

Claim 15 is anticipated by Nowosiadly '631 in view of Dover because claim 15 recites no more than product by process limitations and is, therefore, anticipated by the product of Nowosiadly '631 in view of Dover as set forth above.

Claims 3, 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover as applied to claims 1, 2, 4, 5, 7, 8, 16-18 and 20 above, and further in view of Belser et al. Belser et al. discloses a weatherstrip

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comprising flocking 30 and a show surface layer 40 having a thickness of less than 500 microns thick.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631, as modified above, with a flocking, as taught by Belser et al., on the member adapted to contact the body of the vehicle and a show surface layer with a thickness of less than 500 microns, as taught by Belser et al., to provide a better seal between the weatherstrip and the body and to reduce the cost of manufacturing the weatherstrip, respectively.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover as applied to claims 9, 10, 12, 14 and 15 above, and further in view of Belser et al. Belser et al. discloses a weatherstrip comprising flocking 30 and a show surface layer 40 having a thickness of less than 500 microns thick.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631, as modified above, with a flocking, as taught by Belser et al., on the member adapted to contact the body of the vehicle and a show surface layer with a thickness of less than 500 microns, as taught by Belser et al., to provide a better seal between the weatherstrip and the body and to reduce the cost of manufacturing the weatherstrip, respectively.

Response to Arguments

Applicant's arguments filed November 8, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Dover is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the teachings of Dover are reasonably pertinent to the particular problem with which the applicant was concerned since both Dover and the applicant were concerned with matching the color of a weatherstrip with the color of other elements of the vehicle.

The applicant's comments concerning how a material for use in an interior of a vehicle would resist weathering when used on the outside of a vehicle are not persuasive since TPOs are sufficiently weather resistant. Merely because a material is used on the interior of a vehicle is not a per se indication that it cannot be used with adequate results on the outside of the vehicle.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Finally, the applicant's comments concerning the third flange are not persuasive because Nowosiadly discloses a third flange 226 as noted in the rejection above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

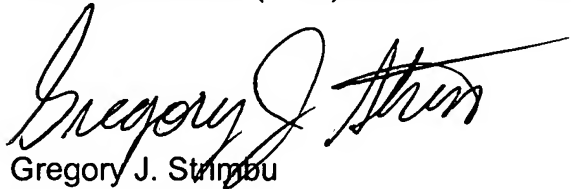
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Stimpbu", with a long horizontal flourish extending to the right.

Gregory J. Stimpbu
Primary Examiner
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January 20, 2006